IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.733 of 2006

Nagaraj ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police, Egmore, Chennai-8.

3.The Inspector of Police,
K3, Aminjikarai Police Station,
Chennai-600 029. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the second respondent in Memo No.149/BDFGISV/2006 dated 17.06.2006 and quash the same and direct the respondents to produce the body of the petitioner viz., Nagaraj (detenu) now detained at Central Prison, Chennai before this Court and set him at liberty forthwith.

For Petitioner : MrV.Parthiban for
Mr.N.Selvarajan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Nagaraj, who is detained as a ''Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 17.06.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner has submitted that pre-detention representation dated 15.06.2006 though received by the detaining authority on 19.06.2006 and rejected on 22.06.2006, the same was neither placed before the Government nor before the Advisory Board, which according to the learned counsel, vitiates the detention order. The learned Additional Public Prosecutor has placed the original records to show that the pre-detention representation dated 15.06.2006 was received by the detaining authority on 19.06.2006 and after due consideration, the same was rejected on 22.06.2006. He also brought to our notice that the Government approved the detention order on 28.06.2006. The file produced by the learned Additional Public prosecutor, particularly, page 55 shows that the Government while considering the detention order, also considered the representation dated 15.06.2006 and after satisfying itself, rejected the same. The learned Additional Public prosecutor has also brought to our notice the rejection order of the detaining authority dated 22.06.2006 and all other connected materials, which were placed before the Advisory Board. In such Circumstances, we are unable to accept the contention raised by the learned counsel for the petitioner.

4. The learned counsel for the petitioner next submitted that though the father of the detenu sent a telegram on 10.06.2006, which is clear from para 33 of the grounds of detention and in the light of the statement made therein viz., that the detention order came to be passed under the influence of one Jaishankar due to political rivalry, the detaining authority has not called for specific remarks for the same from the sponsoring authority. According to him, on this ground also, the detention order is liable to be quashed.

5. The learned Additional Public Prosecutor has pointed out that though the father of the detenu sent a telegram on 10.06.2006, the same was not followed by the written representation. In such circumstances, in view of series of decisions by this Court as well as the Supreme Court, no credence be given to the telegram. In our case, admittedly though the father of the detenu has sent telegram on 10.06.2006 highlighting certain events including the influence by way of political rivalry, in view of the fact that the telegram was not followed by written representation, we are of the view that there is no need to give importance for the same. On the other hand, the grounds of detention show that the detaining authority, after narrating the copy of the telegram sent by Poongavanam, the father of the detenu and taking note of adverse cases as well as the detenu's involvement in ground case and finding that the detenu has not made any complaint to the learned Magistrate about illegal detention or about false case, came to the conclusion that the contentions found in the telegram are false and the same is given with ulterior motive. In the light of the factual details as seen from the grounds of detention and of

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the fact that the telegram was not followed by proper representation, we are unable to accept the said contention. Except the above said contentions, no other ground urged, questioning the order of detention.

6. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2. The The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Egmore, Chennai-8.

3.The Inspector of Police,
K3, Aminjikarai Police Station,Chennai-600029.

4. The Superintendent,
Central Prison, Chennai.
(In duplicate for communication to detenu)

5. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.

6. The Public Prosecutor, High Court, Madras.

2 cc To Mr.M.Selvarajan, Advocate, SR.45925.

HCP. No.733 of 2006

TR(CO)
RVL 16.10.2006

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